

Application No. 09/774,407
Amendment "B" dated March 14, 2006
Reply to Office Action mailed December 14, 2005

REMARKS

The Final Office Action, mailed December 14, 2005, considered and rejected claims 1-36. Claims 1-3, 5-22, 24-27, 35-39 were rejected under 35 U.S.C. 102(c) as being anticipated by Fox (U.S. Patent No. 6,654,786). Claims 4, 23, 36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fox in view of Slaughter (U.S. Patent No. 6,898,618).¹

By this paper, claims 1 and 12 have been amended and new claims 37-38 have been added, such that claims 1-38 remain pending, of which claims 1, 11, 12 and 20 are the only independent claims at issue.

The claims of the present invention are generally directed to embodiments in which a wireless device receives notifications from a server over first and second channels, wherein the first channel is a low capacity channel, such as SMS, and wherein the second channel is a high capacity channel comprising the Internet, which is not always available. As recited in the claims, the notifications sent from the server are temporarily routed to the wireless device over the high capacity channel instead of the low capacity default channel, whenever the second channel is available, during temporary periods of time during which the wireless device is temporarily connected with the high capacity channel. Thereafter, the notifications resume being sent to the wireless device through the low capacity channel. Claims 1 and 12 recite methods, as provided above, using both functional language (claim 12) and non-functional language (claim 1). Claims 22 and 20 are directed to corresponding computer program product claims for implementing the methods recited in claims 1 and 12, respectively. As recited in new claim 37, the second channel is also less expensive than the first channel. Support for the claim amendments is found throughout the specification, including, but not limited to the disclosure found in pages 13-14.

As previously discussed during an in person interview, and in the last amendment, the art of record fails to disclose or suggest the embodiments that are recited in the claims. For

¹ Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, inasmuch as it is not necessary following the amendments and remarks made herein, which distinguish the claims from the art of record, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

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example, although Fox² discloses an embodiment in which a GSM wireless network switches channels between a main channel and an IWF channel, the Fox channels disclosed are not the same as the claimed channels and the switching does not occur in the same manner (only when necessary—such as when the second channel is unavailable).

For example, as previously mentioned, it is clear that the IWF channel is not the same as the second channel (the internet) that is recited in the claims. In particular, Fox discloses that the IWF channel is more expensive than the main channel, which is opposite of what is described in the specification and as now recited in new claim 37, which clarifies that the second channel is less expensive than the first). (Fox Col. 12, ll. 46-54, Application p. 4, ll. 11-12).

To further amplify distinctions between the claims and the cited art, Applicants have also amended the claims to clarify that the second channel has an availability that is less than an availability of the first channel. The claims also clarify that the second channel is used instead of the first channel whenever the second channel is available. (Claims 1 and 12).

New claim 38 has also been added to clarify embodiments in which wherein the first channel is substantially always available for notifications to be sent to the wireless device.

If for any reason the Examiner continues to reject the claims in view of Fox, Applicants respectfully request that the Examiner specifically identify which channels in Fox the Examiner considers to be analogous with the first and second claimed channels of the present invention so that the Applicants will have a fair opportunity to respond to the rejections and assertions made with respect to the cited art.³

For at least these reasons, as well as the others that were previously discussed during the in person interview, Applicants respectfully submit that the pending claims are neither anticipated by nor made obvious by the art of record. Although the foregoing remarks are primarily directed to the independent claims, it will be appreciated that the dependent claims should also be found allowable over the art of record for at least the same reasons. Accordingly,

² Fox was the only reference used to reject the independent claims.

³ One reason for this is that the Examiner appears to argue in the Response to the Arguments that the IWF channel includes the Internet. However, if the rationale for this assertion is based at least in part on Figure 4, element 104, it also appears that the Internet would be considered to be included in all of the Fox channels. This logic would blur the distinction made in the claims between the first and second channels though. So, this argument does not appear to be a valid interpretation of the art in view of the claims.

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it is not necessary to individually address the rejections to each of the dependent claims at this time.⁴

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 14 day of March, 2006.

Respectfully submitted,



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⁴ Although the prior art status and some of the assertions made with regard to the cited art (particularly Slaughter) is not being challenged at this time, inasmuch as it is not necessary, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.